

APPEAL NO. 022572
FILED NOVEMBER 26, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 10, 2002. With respect to the issues before him, the hearing officer determined that the appellant's (claimant) compensable, right ankle injury of _____, did not include an injury to her neck, back, or right lower extremity. The hearing officer further determined that the claimant's impairment rating (IR) was 2% for a right ankle injury as assigned by the designated doctor. In her appeal, the claimant argues that her neck was injured and that she has a 17% IR. The respondent (carrier) did not file a response.

DECISION

Affirmed.

The hearing officer's determination that the claimant's compensable (right ankle) injury of _____, did not include an injury to her neck, back, or right lower extremity is supported by the evidence. The claimant argued that she sustained injuries to these body parts, as well as her right ankle, on the date of injury. The claimant argued that the MRIs of the cervical and lumbar spine support her allegations, as they show some injury. The carrier accepted a right ankle injury and asserts that at the claimant's initial visit to the emergency room on the date of injury, only the claimant's right ankle was treated. The carrier also alleges that the injuries demonstrated in the MRIs, if any, were merely preexisting, degenerative conditions unrelated to the compensable right ankle injury.

A carrier-selected required medical examination doctor, in a report dated August 29, 2000, certified maximum medical improvement (MMI) on August 25, 2000, with a 7% IR based on 5% impairment for cervical loss of range of motion (ROM) and 2% impairment for lumbar loss of ROM. No impairment was assessed for specific disorders of the spine or neurological deficit. The parties stipulated that Dr. C was the Texas Workers' Compensation Commission (Commission)-selected designated doctor. In a report dated November 4, 2000, Dr. C certified MMI on October 28, 2000, with a 17% IR based on 11% impairment for cervical loss of ROM, 4% impairment for loss of lumbar ROM and 2% right ankle impairment. By letter dated March 26, 2002, the Commission wrote Dr. C and advised him that the cervical assessment should be excluded. Dr. C modified his prior Report of Medical Evaluation (TWCC-69) by marking out the 17% IR, and writing "6% (six) corrected 4/13/02." As noted above, we are affirming the hearing officer's determination that the compensable injury does not include either a cervical or lumbar component and that the compensable injury is limited to a right ankle injury.

The hearing officer did not err in determining that the claimant's IR for the right ankle was 2%. Section 408.125(e), reads, in pertinent part. "[T]he report of the

designated doctor shall have presumptive weight, and the [C]ommission shall base the [IR] on that report unless the great weight of the other medical evidence is to the contrary.” The hearing officer’s decision finding a 2% IR for the right ankle, after subtracting a 4% impairment assessed by the designated doctor for the lumbar spine, is supported by the evidence and is not contrary to the great weight of the other medical evidence.

We note here that in her appeal, the claimant asks that we “not let nationality be a factor” in the Appeals Panel opinion. A party’s race or nationality is never considered in our review of the record below.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TWIN CITY FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JIM ADAMS, ATTORNEY
450 GEAR ROAD, SUITE 500
HOUSTON, TEXAS 77067.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Susan M. Kelley
Appeals Judge